



PLEASANT GROVE CITY
PLANNING COMMISSION MINUTES
June 11, 2015

PRESENT: Chair Drew Armstrong, Commissioners Scott Richards, Lisa Coombs, Amy Cardon, Dallin Nelson, Peter Steele and Jennifer Baptista

STAFF: Community Development Director Ken Young, City Planner Royce Davies, City Recorder Kathy Kresser, City Engineer Degen Lewis and NAB Chairperson Libby Flegal

Vice Chair Levi Adams, Commissioner Gary Yeates and Planning Tech Barbara Johnson were excused.

The meeting was called to order at 7:00 p.m.

Commission Business:

- **Pledge of Allegiance:** Commissioner Nelson led the Pledge of Allegiance.
- **Opening Remarks:** Commissioner Coombs gave the opening remarks.

Chair Armstrong stated that a few corrections needed to be made to the agenda. Item 2 is a four-lot subdivision. It will be re-noticed prior to a hearing before the City Council. Item 3 was to be continued to the June 25, 2015, meeting and Item 6 was to be continued indefinitely.

- **Agenda Approval:**
 - **MOTION:** Commissioner Richards moved to approve the written agenda as public record, with the continuation of Item 3 to June 25, 2014, and Item 6 indefinitely. Commissioner Nelson seconded the motion. The Commissioners unanimously voted "Aye". The motion carried.
- **Staff Reports:**
 - **MOTION:** Commissioner Nelson moved to approve the Staff Reports as part of the public record. Commissioner Coombs seconded the motion. The Commissioners unanimously voted "Aye". The motion carried.
- **Declaration of conflicts and abstentions from Commission Members:** There were none.

Chair Armstrong stated that Commissioners Baptista and Steele would be voting during the meeting.

ITEM 1 – Public Hearing to consider rezoning one acre from The Grove Zone, Commercial Sales Subdistrict to The Grove Zone, Mixed Housing subdistrict on property located at approximately 100 South 1300 West in The Grove Zone, Commercial Sales Subdistrict. **SAM WHITE’S LANE NEIGHBORHOOD** **Continued from the May 28th Planning Commission Meeting.*

City Planner, Royce Davies, presented the staff report and stated that the applicant would like to change just one acre of his property from the current zoning of Commercial Sales Subdistrict of the Grove Zone to the Mixed Housing Subdistrict. Commercial Sales currently supports retail and office uses, while Mixed Housing supports somewhat of a commercial aspect, but primarily residential uses. Mr. Davies presented a map identifying the current zoning of the area. A mixed housing project was approved in the area, which Mr. Davies pointed out on the map. There are no structures on the subject property, and it is currently surrounded by other residential uses. Mr. Davies stated that although the area is commercially zoned, there is a legal non-conforming use adjacent to the subject property. With regard to the request, Mr. Davies stated that the applicant approached the adjacent property owner, but he was unwilling to sell at this time. He noted that the property alone is not an ideal setting for a commercial use. Staff determined that residential seems like a better option for the property. Mr. Davies commented that parking and access would also be more feasible if the property were developed residentially.

There was discussion regarding setback requirements and the current measurements of the parcel.

The applicant, John Harr, stated that the presentation was thorough and he did not have anything further to add. He reiterated the difficulty of developing commercially, and indicated that he does not have a current plan for the parcel but would likely have townhomes built.

Chair Armstrong opened the public hearing. There were no public comments. Chair Armstrong closed the public hearing.

In response to a question raised by Commissioner Richards, Community Development Director, Ken Young, stated that there had been no discussion with the City Council regarding this project.

Mr. Davies noted that there was an error on the staff report and requested that the motion contain language recommending approval to the City Council, as the Planning Commission does not have authority to approve the request.

MOTION: Commissioner Nelson moved that the Planning Commission recommend the City Council APPROVE the proposed rezone of approximately one (1) acre from The Grove Commercial Sales Subdistrict to The Grove Mixed Housing Subdistrict, in The Grove Zone; and adopt the exhibits, conditions, and findings contained in the staff report. Commissioner Richards seconded the motion. The Commissioners unanimously voted “Aye”. The motion carried.

ITEM 2 – Public Hearing to consider a four-lot subdivision called Jack Hill Plat B being approximately 1.02 acres on property located at approximately 766 East 100 South in the R1-10 (Single Family Residential) Zone. **SCRATCH GRAVEL NEIGHBORHOOD** **Continued from the May 28th Planning Commission Meeting.*

Mr. Davies prefaced the staff report by stating that the item was noticed as a two-lot subdivision, yet the revised application includes four lots. The item will be re-noticed as a four-lot subdivision and another public hearing will be held when the item is heard by the City Council.

Mr. Davies presented aerial photographs of the subject properties, and indicated that there are three existing homes on the lots, with only Lot 3 being vacant. Originally, the application only included Lots 3 and 4, but upon discovery of illegal subdivision, the City Engineer required Lots 2 and 5 be included in the subdivision. Mr. Davies stated that all of the ordinance requirements, including lot size, setbacks, and frontage requirements, have all been met. Staff recommended approval of the application.

Upon request, Mr. Davies confirmed that the applicant's intention is to develop Lot 3. The additional lots are being included to clean up the illegal subdivision. There was a discussion regarding the public utility easements included on the map presented by Mr. Davies. City Engineer, Degan Lewis, stated that they would also be cleaned up with the subdivision.

The applicant, Amy Erickson, gave her address as 766 East 100 South. She confirmed that the intent was to subdivide their property and build a home on Lot 3.

Chair Armstrong opened the public hearing. There were no public comments. Chair Armstrong closed the public hearing.

MOTION: Commissioner Coombs moved that the Planning Commission APPROVE the proposed four-lot preliminary subdivision called Jack Hill Plat B located at approximately 766 East 100 South in the R1-10 (Single-Family Residential) Zone; and adopt the exhibits, conditions, and findings contained in the staff report. Commissioner Baptista seconded the motion. The Commissioners unanimously voted "Aye". The motion carried.

ITEM 3 – Public Hearing to consider an eight-lot subdivision called Honeysuckle Estates being approximately 0.66 acres comprising two lots located within Pleasant Grove City on property located at approximately 975 South Locust Avenue in the R1-9 (Single Family Residential) Zone. **SCRATCH GRAVEL NEIGHBORHOOD** **Continued to the June 25, 2015 Planning Commission Meeting.*

ITEM 4 – Public Hearing to consider modification to a Conditional Use Permit granted to Sterling Boren to allow an accessory building exceeding 10% of the minimum lot size and 18 feet in height on property located at approximately 30 West 1200 North in the R1-8 (Single Family Residential) Zone. **NORTH FIELD NEIGHBORHOOD**

Mr. Davies gave a history of the issues and stated that Sterling Boren was granted a Conditional

Use Permit on December 11, 2014, by the Planning Commission. He indicated that the structure is under construction and presented several photographs of the site. On May 30, 2015, the City issued a “stop work” on the project, and City officials were sent to measure the footings and other aspects of the structure. The official came back to staff with concerns that the structure was larger than what was approved. Mr. Davies stated that staff conducted research of the original minutes from the December 11 meeting, as well as what staff can recommend and what action the Planning Commission can take in this situation.

For the benefit of the public, Mr. Davies explained that a Conditional Use Permit allows for a permitted use with conditional requirement upon approval. In this particular case, the applicant wants to construct a shed that exceeds the minimum lot size in the zone by 10%. The original application was for an accessory building of 2,100 square feet, which is why the Conditional Use Permit was required. Mr. Davies confirmed that notice was sent to the neighbors, there was a public hearing, and through deliberations of the Planning Commission, a Conditional Use Permit was approved subject to the following conditions:

1. The building should be a 30 x 52 feet, so the square footage shall not exceed 1,560.
2. All Planning, Engineering, and Fire Department requirements must be met.
3. The masonry requirements would be waived.

Mr. Davies commented that normally the applicant would be required to use building materials to match the primary dwelling in terms of appearance, but it was indicated that the home was very old and the same type of brick would be a challenge to obtain. For those reasons, the Commission chose to waive the requirement.

The City received complaints about the accessory structure and it was discovered that there are differences between what was approved and what has been built thus far. Mr. Davies stated that the original approval of the application, and all other applications, includes the adoption of the exhibits, conditions, and findings set forth in the staff report. This means that all of the exhibits included at the end of the staff report, such as site plans, zoning maps, and aerial images, are accepted as part of that approval. Mr. Davies presented a site plan, which was included in the original application. The site plan was originally created for an application for an addition to his home and was submitted on November 11, 2014. The plan showed the accessory structure as 60' x 30', with a 30-foot rear yard setback, and an eight-foot side yard setback. Mr. Davies confirmed that this was included in the staff report and was part of the original approval.

Mr. Davies presented the findings from staff's research on what has already been constructed. The base of the structure measures 36' x 52', which is 1,872 square feet. The footprint of the home is 2,287 square feet, sans the garage. This number was determined from the plans submitted by the applicant for the addition to his home. Mr. Davies stated that the Code requires accessory buildings to be smaller than the footprint of the main dwelling sans garage, so the applicant has met this requirement. On December 11, the garage was approved to be 30' x 52' or 1,560 square feet, so the structure that has been partially constructed violates the conditions of approval.

Mr. Davies also addressed concerns with the height of the garage. He and the City Attorney conducted research and found that the Code states that an accessory building cannot exceed the height of the main dwelling. At the site of the garage, an 18-inch foundation wall has been erected that pushes the height of the structure to 20' 3". This is higher than what was discussed, although not included in the motion at the original meeting. According to the site plan submitted from the applicant for the addition to the home, the highest point of the home was 18' 9".

With regard to setbacks, Mr. Davies indicated that the garage currently sits 8' 4" from the eastern property line and 14 feet from the northern property line. For buildings of 20 feet in height, the side setback requirement is eight feet and the rear setback requirement is 14 feet in all R1 zones. Mr. Davies confirmed that the location of the structure does meet the code requirements. He referred to the minutes from the December 11 meeting where the applicant indicated that he intended to have the building setback be 120 feet from the street, which would have allowed for a 38.87-foot rear setback. The building is 132 feet from the street, which moved the shed closer to the rear property line.

Mr. Davies indicated that there were differences in the measurements provided at the Planning Commission Meeting and with the building permit application. He stated that staff has become concerned that there has been some misinformation, whether intentional or unintentional. Because conditions of approval have not been met, staff recommended the Planning Commission seek to find a set of conditions for the proposed modification that would allow for the garage that has already been partially constructed. The application must be approved because a garage is a permitted use with conditions and the property owner has substantial property rights. Mr. Davies presented a number of possible conditions the Planning Commission could require of the applicant, such as setback clarification, removing the architectural waiver that was placed originally, height restrictions, specific building materials, and paving of the driveway.

Commissioner Richards expressed concern with the differences between what was originally approved and what has been constructed, especially with the square footage and height exceeding what was approved.

Chair Armstrong commented that what the applicant has constructed meets the Code requirements for setbacks on all sides. To that, Mr. Davies stated that there was concern expressed by a neighbor during the original meeting regarding the rear setback. They commented that the area the applicant was leveling for the building seemed closer to the rear property line than the 30 feet discussed. Mr. Davies reminded the Planning Commission that the setbacks were not specifically addressed in the conditions and only discussed during the meeting.

The applicant, Sterling Boren, gave his address as 30 West 1200 North. He stated that he provided the dimensions to the Commission during the meeting. He read the following quote from the minutes: "Sterling Boren noted that the accessory building was 120 feet back from the street. Additionally, he explained that the dimensions were 36 x 60 and 17 feet in height." Mr. Boren explained that staff requested the garage be included on the plot plan for the addition to his home and he explained to them that his would be preliminary. He was told this would be fine and they just wanted to see it. For this reason the garage was included with preliminary

measurements, on the plan for the addition. Prior to the December 11 meeting, Mr. Boren gave staff a packet regarding the garage, where it was located, and the dimensions stated above. In regard to the height of the building, the 18-inch foundation wall was a requirement from the Building Department. He stated that he did what he was told to do. Mr. Boren confirmed that the building is $\frac{3}{4}$ of the way finished, and he has invested \$50,000 in concrete and building materials.

Commissioner Nelson also read from the minutes, showing that Mr. Boren had said he would be willing to decrease the size of the garage. He indicated that there was a lot of deliberation during the original meeting but the motion gave specific measurements of 30' x 52' or 1,560 square feet.

Mr. Boren stated that he did not realize the Commission was using the preliminary plan for the addition, or he would have corrected them. Those measurements were not accurate, but a rough draft. Additionally, he found that the garage would be useless at 120 feet from the street, as he would not be able to back anything into it being it is so close to the house. For this reason the application for the building permit showed a rear setback of 20 feet, with the building size as 36' x 60'. He later resubmitted another set of plans with the building at 36 x 52. After this, he approached the building department to request the garage be moved back an additional five feet, which they approved.

In response to a question from Chair Armstrong, Mr. Boren confirmed that he thought the foundation wall would be flush with the ground, but it was not. The height of the garage now measures 18'8". There was discussion about the height of the dwelling and it was suggested that it be measured again to verify the correct height.

Chair Armstrong opened the public hearing.

Lisa Hancock identified herself as an attorney from Jeffs & Jeffs, P.C. representing a few of the concerned homeowners. She presented a manila folder of their research to the Commission, and gave a brief presentation on what they believe the facts of the case to be. Ms. Hancock stated that "conditional use" does not mean that the use has to be approved, but it means that the City can place conditions on the approval in order to keep things regulated. The Planning Commission looked into the research and originally required conditions they felt were in the best interest of the City, but the applicant did not comply. She was concerned that the Commission was now coming up with new conditions to meet what the applicant has already built. She declared that this was not the purpose of the Planning Commission Meeting, or an orderly government.

Ms. Hancock read Section 10-9B-10 of the City Code regarding the building height requirements, which shall not exceed the height of the dwelling. She reminded the Commission that this was a requirement, not a condition. Since the exact height of the home was questionable, she suggested the home be measured again to ensure that the building is within Code. She also stated that under Section 10-9B-7-2, if a building is greater than 18 feet, the public shall have the opportunity to come forward to oppose it, which is what her clients have done. Ms. Hancock directed the Commissioners' attention to the photographs included in the

packet presented earlier and showed how imposing the structure appears from the neighbors' properties. Additionally, she stated that the structure does not need to be 18 feet high to house the applicant's fifth wheel.

Ms. Hancock noted that there would be significant property valuation due to the large structure. They had hoped to have a realtor attend the meeting, but were unable to find someone available that evening. Her final statements pertained to the applicant constantly changing his plans and not following through with what was approved. Ms. Hancock stated that the applicant should not be awarded for violating what he was told to do. She suggested the application be denied.

Nate Olphin gave his address as 39 West 1300 North and was present to support the Sheridan Family, who are neighbors to the rear of the subject property. His primary concern was that the building is not a residential building, but a commercial style warehouse. Mr. Olphin declared that his opposition was not personal, he simply wanted to see something more reasonable in the neighborhood.

Todd Sheridan clarified a few items pertaining to the process that occurred during the original Planning Commission Meeting. He and one other neighbor were the only members of the public who attended, both with concerns about the size of the proposed structure. They expressed their concerns about size, height, and proximity to their property with the Planning Commission at that time. Mr. Boren was asked if he would reduce the size, which he agreed to. Mr. Sheridan stated that they were all right with that but was shocked at the height and rear setbacks of the actual building as construction began. Mr. Sheridan was very upset that Mr. Boren did precisely what they came to the meeting to oppose. He was concerned that comments made at the meeting did not make it into the notes that then when on to the City Council where it was approved in another meeting the public was not invited to. Mr. Sheridan did not want to create financial problems for Mr. Boren, but was not in favor of a commercial style building in which he could fit his entire home and still have extra space.

Elwood Green voiced support for Mr. Boren and his intentions. He asked the Commission not to be caught up in the property value issue, because it would be a conflict of interest with several of the Commission Members being realtors.

Nicole Sterling requested that the Commission consider tabling the matter so that more information can be gathered, including monetary damages the applicant might accrue and depletion of property values.

Ann Wilson reported that she lives directly to the east of the Boren home, and that there is only an eight-foot separation from her property. She, however, was not concerned. As a former realtor, she was excited to see the garage approved because she expects there to be a positive effect on her property value. She added that Mr. Boren did everything he was asked to, and that their intention was just to house their personal items.

Shawna Sheridan argued that the Wilson's property is a one-half acre lot, as is the Boren's, so although the building is close to her property line it is not close to her home. Mrs. Sheridan felt she had been consistently lied to regarding this issue. They were unprepared for the first public

hearing because they thought the notice was for the addition to the home, and the proposed measurements changed with every application. In addition, the height was not included in the motion. Mrs. Sheridan attempted to take her own measurements of the home and structure, but the applicant refused to allow her to do so. If the structure is allowed to continue, she requested that vegetation be planted between the imposing structure and her property. She also stated that the structure is more industrial than residential, which was also of concern.

Brett Robertson gave his address as 1254 North 100 West and stated that he was not opposed to the garage although he can also see the structure from his backyard. He remarked that the matter should not be heard again since the permit has been approved and the applicant is in compliance with the Code. Mr. Robertson also made a comment regarding the applicant's property rights.

Chair Armstrong stated that although the Commissioners are strong proponents of personal property rights, this item is back before them because the applicant did not build according to what was approved. The minutes prove that.

Mr. Boren informed the Commission that Mr. Sheridan commented that he would rather see the applicant's vehicles in a large garage than in the middle of the backyard. The subject property is one-half acre, and the building only takes up 8.5% of the lot. Mr. Boren also commented that there are other accessory buildings in the area that are larger than this one.

Mr. Sheridan stated that there is a difference between what is permissible and what is appropriate. As stated earlier, any accessory structure exceeding 800 square feet has to be approved with a conditional use permit, and the Code is intended to prevent large structures from being built in residential areas.

Chair Armstrong reiterated that a conditional use permit is a permitted use with conditions required with approval. Additionally, if the applicant has chosen to build a building smaller than 800 square feet, he would not have needed a conditional use permit. Mr. Davies corrected Chair Armstrong and stated that he could have built a 9,000 square-foot structure based on the size of the property. Chair Armstrong explained that the Commission is an administrative body, and must follow Code.

Mr. Boren stated that the house and garage together take up 22% of the lot.

Mr. Green commented on other accessory buildings in the area and stated that the garage would not set a dangerous precedent.

There were no further public comments. Chair Armstrong closed the public hearing.

Chair Armstrong read from the December 11 meeting minutes regarding the applicant's intentions for building materials, color, and other architectural elements. It was also clear that the applicant stated that the height would be 17 feet, although it was not included in the motion. Chair Armstrong indicated that the building ended up at 18'8" out of necessity rather than malice.

Commissioner Richards reflected on his memory of the original meeting. He stated that there was a long discussion regarding setbacks, but they were not included in the motion and the current building is within Code. Commissioner Richards said he could not speak to anything that happened after that meeting since he was only involved in the Planning Commission. Mr. Davies clarified that there was no other meeting since the Planning Commission is the land use authority for conditional use permits. Commissioner Richards continued by stating that he had concern with the size of the originally proposed dimensions, and thought that issue had been resolved with the applicant at that time.

Chair Armstrong referred to the meeting minutes again, stating that the setback from the front was intended to be 120 feet and that Mr. Boren stated that the dimensions would be 36' x 60'. He wanted to know why that was not congruous with what was stated in the motion made by Commissioner Nelson.

Chair Armstrong stated that the Commission should look at this as an entirely new application, and began addressing the issue of the architectural requirements of the structure. According to Section 10-9-B7-F-4 of the Code, any accessory structure over 500 square feet must match the dwelling in terms of materials and architectural design.

Commissioner Coombs stated that her primary concern was with the height of the building. It was reiterated that accurate home measurements need to be obtained.

Chair Armstrong stated that the setbacks and even the height are within Code, so the only consideration should be whether to waive the masonry requirements again. If the structure did match the dwelling it would soften the appearance of the building. Commissioner Coombs added that the request for photos of the proposed materials should be submitted and was mentioned several times in the minutes. She asked if those had been provided. Mr. Davies commented that this was not a Code requirement, but a request from a resident. The motion just stated that the masonry requirements were waived.

Mr. Boren informed the Commission that the request for photographs of the materials was from the Building Department and they were provided to them. The materials match the color of the home, although they were not an exact match.

Chair Armstrong informed the applicant that if he wanted to build the structure that was approved, he could do so now. The Commission now needs to look at issuing a new permit for a different structure, as if it were a new application. Mr. Boren responded that he did not do anything he was not told to do. He talked about the setback and height issues that pushed the structure to where it is currently, and how high it ended up being. He also stated that he was not given a copy of the motion, and was unaware that specific measurements were included.

Commissioner Nelson, who made the motion in the original meeting, stated that Mr. Boren was willing to reduce the size of the structure and that was reflected in the motion.

There was discussion about whether a mistake was made on the part of the Planning Commission or the minutes themselves. In the original meeting, Mr. Boren commented that the steel trusses

would be placed every eight feet, which explains why there is an eight-foot difference in the proposed measurements and those in the motion. Mr. Boren built the building to that measurement. The concern was with the 30-foot verses the 36-foot measurement. It was suggested that this was a mistake.

Mr. Davies commented that three different drawings were submitted, one with the addition, one with the building permit, and one that was recently submitted. All showed different building measurements. He stated that the burden of proof lies with the applicant to provide the correct information, and those are what he provided.

Discussion followed between the applicant and Commissioners regarding the different measurements that were provided. The building is 36 x 52, which is what the applicant thought they had agreed to at the meeting.

Chair Armstrong ended the discussion by stating that the issue was moot, at this point. The Commission needs to consider this application as if it was a new application. The Conditional Use Permit does not fit the structure that has been built. Chair Armstrong asked the Commission if they were all right with the current size of the building, and wanted to discuss the possibility of having trees installed along the side and rear of the structure as a screening measure.

Commissioner Baptista shared some of the research she conducted in preparation for this item. To begin, she referenced text from Attorney David L. Church, from the Utah League of Cities and Towns. She stated that Utah law is very clear that the landowner is entitled to approval of a land use if the application complies with the City and Town's ordinance. It is specifically stated in Utah law that a land use authority cannot impose any requirement on an applicant for a land use permit that is not specifically expressed in either State law or local ordinance. This means that the Planning Commission, when acting as a land use authority has very little discretion about whether to grant or deny the permit if the application complies with the ordinance, the Planning Commission or any other land use authority must approve it. And if it does not comply, the Planning Commission must deny the application, regardless of whether the Planning Commission or public thinks that the application is a good or bad idea. In addition, if the City or Town ordinances are ambiguous, they must be interpreted by the City or town in favor of the landowner. When the Planning Commission is acting as land use authority it has little discretion. The landowners' application either complies with the ordinance or it does not. Commissioner Baptista said that the Planning Commission Members are to be experts in planning and local ordinances. She also attempted to speak to the property values of the surrounding homes, however, Chair Armstrong stopped her and stated that they would not be speaking to property values as there is no solid proof either way.

Chair Armstrong thanked Commissioner Baptista for sharing the words of Attorney Church, saying that this was exactly what he was trying to get across. He reiterated that he was not comfortable waiving the City's architectural requirements.

Mr. Young read the Code requirement from Section 10-2-4 that states that, "Accessory buildings larger than 500 square feet shall match the main dwelling with architecturally similar materials, colors, and details. The Planning Commission may grant a waiver to deviations with the

accessory building matching the main dwelling roofline and masonry, through the issuance of a conditional use permit, for buildings that are composed of acceptable durable materials, and having met the standards set for in Section 10-2-4 of this Title.”

Upon request from Chair Armstrong, it was confirmed that the exterior of the home addition included siding that matched the color of the main dwelling.

Mr. Young clarified that there were no provisions for landscaping. The Code, however, states that, “If part of the proposed Conditional Use Permit is found to be contrary to the standards prescribed in this section, the application shall propose curative measures to achieve the standards as found in this section,” which are in relation to the health, safety, and welfare of the residents. The Planning Commission is obligated to approve an application that is within Code.

Chair Armstrong stated that he would not be opposed to some vegetation screening and wanted to discuss the possibility of requiring the building to match the home in terms of colors and material. Originally the requirements were waived because the home is old and the exact brick would be near impossible to find. Commissioner Baptista commented on the building materials witnessed at the site and stated that they do match the color of the home. Her concern was that the roof is to be constructed of a silver metal. Mr. Boren confirmed that the material has a rust-proof, galvanized coating, and they were planning on leaving it the silver color. Chair Armstrong stated that if they do not waive the architectural requirements, the application would meet Code.

Mr. Davies reviewed the following guidelines outlined in the Code for determining conditions:

- a. It is detrimental to the health, safety, and welfare of persons residing in the vicinity or injurious to the property of the vicinity. The use will cause unreasonable risks to the safety of persons or property because of the vehicular traffic or parking.
- b. The use will unreasonably interfere with the lawful use of surrounding property.
- c. The use will create a need for essential city services which cannot be reasonably met.
- d. The use will be in any way injurious to property in the vicinity.

Mr. Davies added that the Code requirements are the law, but the conditions could be determined by the Commission. The architectural requirements are in the Code but the Commission could choose to waive them.

There was discussion regarding the silver roofing and whether the Commission felt it was appropriate. It would be a harsh view for the neighbors and make the building look more industrial.

Commissioner Coombs wanted to see the driveway paved. Mr. Young commented that this is not a Code requirement but a recommendation from staff. If the building were used as a garage, the driveway needs to be paved. He also stated that this was not necessarily an issue.

Chair Armstrong again commented that his concerns were with the matching of the building and the screening on the rear and sides. After consideration, he determined that the silver roof would not really be an issue due to the slope of the roof and the height of the structure.

Commissioner Steele stated that they could choose to not waive the architectural requirements and leave the details up to staff.

There was discussion regarding the possible vegetation condition, and what was legal for the Planning Commission to require. Commissioner Baptista expressed her concern with the monetary burden they may place on the applicant.

MOTION: Commissioner Steele moved that the Planning Commission approve the amended conditional use permit for Sterling Boren to construct an accessory building exceeding 10% of the minimum lot size in the R1-9 Zone; and adopt the exhibits, conditions, and findings contained in the staff report, and as modified by the following conditions:

1. All final Planning, Engineering, and Fire Department requirements must be met.
2. A 15-foot vegetative screen shall be planted around three sides of the building.
3. The height of the structure not exceed 18' 8".

Commissioner Steele asked staff if the applicant could use siding instead of masonry if the waiver were left out of the motion. Mr. Davies stated that the materials must be similar to, not exact. This could be done with siding that matches the color and style of the home.

Commissioner Richards seconded the motion. Vote on motion:

Commissioner Steele- Aye
Commissioner Nelson- Aye
Commissioner Richards- Aye
Commissioner Baptista- Nay
Commissioner Coombs- Nay
Commission Cardon- Nay
Chair Armstrong- Nay

Motion failed 4-to-3.

Chair Armstrong commented that 15-foot trees would be difficult for the applicant to find, but he could plant something that would grow to the desired height. He was also still in favor of the materials matching the home.

MOTION: Commissioner Baptista moved that the Planning Commission approve the amended Conditional Use Permit for Sterling Boren to construct an accessory building exceeding 10% of

the minimum lot size in the R1-9 Zone; and adopt the exhibits, conditions, and findings contained in the staff report, and as modified by the following conditions:

1. All final Planning, Engineering, and Fire Department requirements must be met.
2. A 15-foot vegetative screen shall be planted around three sides of the building.
3. The height of the structure not exceed 18' 8".

The motion died for lack of a second. There was further deliberation regarding possible conditions.

MOTION: Commissioner Baptista moved that the Planning Commission approve the amended conditional use permit for Sterling Boren to construct an accessory building exceeding 10% of the minimum lot size in the R1-9 Zone; and adopt the exhibits, conditions, and findings contained in the staff report, and as modified by the following conditions:

1. All final Planning, Engineering, and Fire Department requirements must be met.
2. The height of the structure shall not exceed 18' 8".
3. The coloring of the structure shall match that of the existing building.

Commissioner Steele asked if this would waive the other architectural requirements. Commissioner Baptista confirmed that it would.

The motion died for lack of a second.

MOTION: Commissioner Steele moved that the Planning Commission approve the amended conditional use permit for Sterling Boren to construct an accessory building exceeding 10% of the minimum lot size in the R1-9 Zone; and adopt the exhibits, conditions, and findings contained in the staff report, and as modified by the following conditions:

1. All final Planning, Engineering, and Fire Department requirements must be met.

Commissioner Cardon seconded the motion. Vote on motion:

Commissioner Steele- Aye
Commissioner Nelson- Aye
Commissioner Richards- Nay
Commissioner Baptista- Nay
Commissioner Coombs- Nay
Commission Cardon- Aye
Chair Armstrong- Nay

The motion failed 4-to-3.

MOTION: Commissioner Richards moved that the Planning Commission approve the amended conditional use permit for Sterling Boren to construct an accessory building exceeding 10% of the minimum lot size in the R1-9 Zone; and adopt the exhibits, conditions, and findings contained in the staff report, and as modified by the following conditions:

1. All final Planning, Engineering, and Fire Department requirements must be met.
2. The coloring of the structure shall match that of the existing building.
3. A 10-foot vegetative screen is planted along the back of the building.
4. The height of the structure not exceed 18' 8".

Commissioner Nelson seconded the motion. Vote on motion:

Commissioner Steele- Aye
Commissioner Nelson- Aye
Commissioner Richards- Aye
Commissioner Baptista- Nay
Commissioner Coombs- Nay
Commission Cardon- Nay
Chair Armstrong- Aye

Motion passed 4-to-3.

Note: Commissioners Nelson and Cardon were excused from the meeting.

Chair Armstrong called for a 10-minute recess at 9:21 p.m. The meeting reconvened at 9:31 p.m.

ITEM 5 – Public Hearing to consider the request of Barry and Linda Pearson for a Conditional Use Permit to allow rear yard fence that exceeds six feet in height on property located at approximately 735 East Stubbs Street in the R1-9 (Single Family Residential) Zone.
SCRATCH GRAVEL NEIGHBORHOOD

Mr. Davies prefaced his presentation by stating that the application is rather straightforward. The Code states that rear and side yard fences exceeding six feet can be up to 10 feet in height. The applicants desire to construct an eight-foot fence to prevent deer from jumping into their yard. He presented aerial photographs of the property and identified the area where the fence would be installed. Mr. Davies stated that there is an elevation different between the applicants' yard and the neighbors, which is why the deer can jump into the yard, but cannot jump back out

The applicant, Linda Pearson, gave her address as 735 Stubbs Street. In response to a question raised by Commissioner Richards, she confirmed that the fence will be vinyl. There is currently

a chain link fence and bamboo was planted in an effort to keep the deer out. The neighbors are not opposed to the fence being installed.

Chair Armstrong opened the public hearing. There were no public comments. Chair Armstrong closed the public hearing.

MOTION: Commissioner Coombs moved that the Planning Commission APPROVE the proposed Barry & Linda Pearson Conditional Use Permit request for an eight-foot fence in the rear and side yard of property located at 735 East Stubbs Street, in R1-9 (Single Family Residential) one; and adopt the exhibits, conditions, and findings contained in the staff report. Commissioner Richards seconded the motion. The Commissioners unanimously voted "Aye". The motion carried.

ITEM 6 – Public Hearing to consider a one-lot subdivision called Creekside North being approximately 5.75 acres on property located at approximately 544 West 3300 North in the R-R (Rural Residential) Zone. **MANILA NEIGHBORHOOD** **Continued indefinitely*

ITEM 7 Discussion and recommendations regarding accessory apartment regulation issues.

It was stated that there would be a joint session with the Planning Commission and City Council on June 23, 2015. Staff wanted to know if the Commission had any concerns regarding the accessory apartment issues that they would like to discuss at that meeting. It was stated that the Commission did not have any concerns at this time but needed more time to discuss the issues they have not yet been able to discuss. Mr. Young confirmed that there was no time frame for this. Chair Richards confirmed that they could either schedule a meeting entirely for this issue or come early for the work session. Staff would look into what meeting would allow them adequate time to discuss the item.

MOTION: Commissioner Baptista moved that the Planning Commission refrain from discussing the accessory apartments issue until staff has determined an appropriate time to do so. Commissioner Richards seconded the motion. The Commission unanimously voted "Aye". The motion carried.

**Review and approve the Minutes and Report of Actions from the following meetings:
Planning Commission Meeting Minutes for May 28, 2015.**

MOTION: Commissioner Baptista moved to approve the Planning Commission Meeting Minutes of May 28, 2015. Commissioner Coombs seconded the motion. The Commissioners unanimously voted "Aye". The motion carried.

MOTION: Commissioner Richards moved to adjourn. Commissioner Coombs seconded the motion. The Commissioners unanimously voted "Aye". The motion carried.

The meeting adjourned at 9:44 p.m.

Planning Commission Chair

Barbara Johnson, Planning Tech

Date Approved